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Connecticut Water Works Association
Before the Judiciary Committee
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The Connecticut Water Works Association (CWWA), a trade association which represents private, municipal and regional water companies, **opposes HB-5602, An Act Concerning a Property Owner's Liability for the Expenses of Removing a Fallen Tree of Limb.**

As stewards of the state's environment and water resources, water utilities own and maintain vast tracts of open space and watershed lands, much of which may be forested. Trees growing on lands near rivers and streams buffer waterways from pollution and damage, act as natural water filters, and provide habitat for a wide variety of plants and animals. As such, maintaining and managing forested lands is critical to a water utility's source water protection efforts.

Under current law, when a tree or limb falls on an adjoining property, the court applies a negligence standard to determine if the tree owner knew or should have known that the tree might fall. If a tree is dead, diseased or decayed, the tree owner will generally be held liable for damages because the tree owner is held to a reasonable duty of care to inspect trees on the property and observe what is visible when the trees are inspected. This strikes a reasonable balance.

HB-5602, however, imposes open-ended liability on tree owners that have received written notice from an adjoining property owner that a tree is diseased or "likely to fall". The bill fails to define the phrase "likely to fall" or to narrow the phrase by specifying a time period in which the tree may be likely to fall. As such, if an adjoining property owner notifies a tree owner that a tree is likely to fall and the tree falls twenty, thirty or more years later, the tree owner may be held liable for expenses in removing the tree.

Although the bill requires an adjoining property owner's assertion that a tree is diseased or likely to fall to be based on the opinion of a licensed arborist, the bill fails to provide tree owners with a mechanism for contesting the notice, leaving them with considerable uncertainty regarding potential liability.

Moreover, property owners, such as water utilities, concerned about the potential liability associated with trees identified in an adjoining property owner's notice may decide to remove trees prematurely to minimize such liability. This unintended consequence may undermine source water protection and forest management efforts.

CWNA is interested in working with proponents of the bill to minimize the unintended consequences associated with this shift in liability. **We recommend that the exemption in the bill for non-profit land organizations be broadened to include land owned by water companies, as defined in Section 25-32a.** Recognizing the importance of preserving water company lands to protect the state's water resources, water company lands are already subject to a host of requirements which limit activities on lands and impose stringent restrictions on the sale of such lands. Exempting such lands from the scope of this bill would be consistent with this approach.

Thank you for your consideration.